

REFERENCE TITLE: public participation in government; protection

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HB 2751

Introduced by  
Representatives Lopes, Alvarez, Bradley, Downing, Kirkpatrick, Sinema:  
Gallardo, Prezelski, Tully

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 15;  
RELATING TO PUBLIC PARTICIPATION IN GOVERNMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended  
3 by adding article 15, to read:

4 ARTICLE 15. PUBLIC PARTICIPATION IN GOVERNMENT

5 12-751. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CLAIM" MEANS ANY CLAIM THAT IS MADE IN ANY CIVIL ACTION.

8 2. "COSTS" MEANS ALL COSTS THAT ARE REASONABLY INCURRED IN CONNECTION  
9 WITH ASSERTING THE IMMUNITY DEFENSE.

10 3. "EXERCISE OF THE RIGHT OF PETITION" MEANS ANY WRITTEN OR ORAL  
11 STATEMENT THAT IS ALL OF THE FOLLOWING:

12 (a) MADE TO A LEGISLATIVE OR EXECUTIVE BODY OR IN ANY OTHER  
13 GOVERNMENTAL PROCEEDING.

14 (b) MADE IN CONNECTION WITH AN ISSUE THAT IS WITHIN THE JURISDICTION  
15 OF THE LEGISLATIVE OR EXECUTIVE BODY OR ANY OTHER GOVERNMENTAL PROCEEDING.

16 (c) MADE FOR THE PURPOSE OF INFLUENCING A GOVERNMENTAL ACTION,  
17 DECISION OR RESULT.

18 4. "GOVERNMENTAL PROCEEDING" MEANS ANY PROCEEDING, OTHER THAN A  
19 JUDICIAL PROCEEDING, BY AN OFFICER, OFFICIAL OR BODY OF THIS STATE AND ANY  
20 POLITICAL SUBDIVISION OF THIS STATE, INCLUDING BOARDS AND COMMISSIONS, OR BY  
21 AN OFFICER, OFFICIAL OR BODY OF THE FEDERAL GOVERNMENT.

22 5. "IMMUNITY DEFENSE" MEANS THE IMMUNITY THAT IS PROVIDED IN SECTION  
23 12-752.

24 12-752. Strategic lawsuits against public participation;  
25 damages

26 A. A PERSON HAS FULL IMMUNITY FROM ANY CLAIM FOR ENGAGING IN THE  
27 EXERCISE OF THE RIGHT OF PETITION UNLESS THE CLAIMANT PROVES BY CLEAR AND  
28 CONVINCING EVIDENCE THAT THE DEFENDING PARTY KNOWINGLY OR RECKLESSLY MADE  
29 FALSE STATEMENTS THAT CAUSED ACTUAL INJURY TO THE CLAIMANT.

30 B. IF A DEFENDING PARTY ASSERTS THE IMMUNITY DEFENSE BY MOTION OR  
31 OTHERWISE, THE COURT SHALL STAY ALL OTHER PROCEEDINGS AND APPLICABLE TIME  
32 PERIODS PENDING THE COURT'S RULING ON THE IMMUNITY DEFENSE, EXCEPT THAT THE  
33 COURT, ON MOTION, AFTER A HEARING AND FOR GOOD CAUSE SHOWN, MAY ALLOW  
34 PROCEEDINGS THAT ARE NECESSARY TO MAKE ANY DETERMINATION UNDER THIS SECTION.

35 C. IF THE COURT FINDS THAT THE IMMUNITY DEFENSE APPLIES TO A CLAIM,  
36 THE COURT SHALL DISMISS THE CLAIM WITH PREJUDICE AND SHALL AWARD THE  
37 DEFENDING PARTY DAMAGES IN THE AMOUNT OF NOT LESS THAN FIVE THOUSAND DOLLARS  
38 OR THREE TIMES THE ACTUAL AMOUNT OF DAMAGES, WHICHEVER IS GREATER, AND  
39 REASONABLE ATTORNEY FEES AND COSTS, UNLESS THE COURT FINDS THAT AN AWARD  
40 WOULD BE MANIFESTLY UNJUST. ANY AWARD THAT IS MADE PURSUANT TO THIS  
41 SUBSECTION IS IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER REMEDY AVAILABLE  
42 TO THE DEFENDING PARTY.

43 D. THIS ARTICLE DOES NOT LIMIT OR PRECLUDE A LEGISLATIVE OR EXECUTIVE  
44 BODY OR A PUBLIC AGENCY FROM ENFORCING THE RULES OF PROCEDURE AND RULES OF  
45 ORDER OF THE BODY OR AGENCY.